

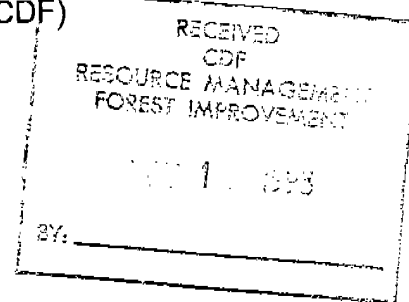
State of California

Memorandum

003242

To : Mr. Allen Robertson, Environmental Coordinator
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Post Office Box 944246
Sacramento, California 94244-2460

Date : November 13, 1998



From : Department of Fish and Game - Region 1
601 Locust Street, Redding, California 96001

Subject : Draft Environmental Impact Report (DEIR), SCH #97012027, Headwaters Forest Acquisition and the Pacific Lumber Company (PALCO) Sustained Yield Plan and Habitat Conservation Plan (HCP)

Under authority of the California Endangered Species Act (CESA), the California Department of Fish and Game (DFG) has participated with the PALCO, National Marine Fisheries Service (NMFS) and US Fish and Wildlife Service in development of the draft HCP for the referenced project. The DEIR addresses the acquisition of the Headwaters Forest by the State and Federal governments and the proposed HCP. The DEIR also addresses additional natural resource issues for which the DFG is a designated trustee (California Environmental Quality Act [CEQA] Guidelines §15386). As a responsible agency under the CEQA, the DFG has consulted with the CDF during preparation of the DEIR consistent with Public Resources Code §21104. In addition, the DFG participated in the interagency review and development of the administrative DEIR and assisted in the preliminary evaluation of impacts and development of mitigation measures for species proposed for coverage under the incidental take permit (ITP). Consequently, many of the DFG's issues of concern have been addressed in the DEIR. Therefore, rather than providing comments as to these issues at this time, the DFG will review public comments and suggestions to assist in developing measures for the final HCP and EIR.

The DFG intends to rely upon the final EIR in its role as a responsible agency under the CEQA with regard to approvals for the project under the CESA, the Natural Community Conservation Planning (NCCP) Act and Section 1603 of the Fish and Game Code. Therefore, in accordance with §15091 and §15096 of the CEQA Guidelines, the DFG will consider the environmental effects of the project as shown in the final EIR and will make appropriate findings on the final EIR before deciding whether or how to approve an ITP or other requested approvals for the project such as a streambed alteration agreement and NCCP. In addition, the DFG recognizes that CEQA requires adoption of a reporting or monitoring program and CESA requires effectiveness monitoring. This will involve further development of procedures for implementation monitoring, effectiveness monitoring and adaptive management before the issuance of an ITP or other requested approvals.

The following comments address issues which were either overlooked in the DFG's preliminary review process or were not entirely addressed in the DEIR.

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GENERAL COMMENTS

Page 1-14. California Natural Community Conservation Planning Process.

PALCO has requested that the HCP be evaluated as an NCCP thereby enabling the "take" authorization for covered species provided under §2835 of the Fish and Game Code. Several references are made to this possibility in the draft HCP and Implementing Agreement. The DFG has recently completed an internal review of the draft HCP to evaluate its conformance with the NCCP Act and General Process Guidelines. This review concludes that, in its current form, the draft HCP does not meet the standards necessary to comply with the NCCP. The requirements of the CESA are not synonymous with those of the NCCP Act and the draft HCP was developed with the intent of providing for the needs of a specific list of covered species rather than conserving habitat diversity, abundance and distribution. The draft HCP conservation strategy is intended to avoid jeopardy and then minimize and fully mitigate impacts of "take." As yet, the strategy does not appear to use an integrated ecosystem approach for all of the covered species and their associated habitats.

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Page 2-75. 2.9 Monitoring Plan.

The DFG expects considerable further development of the mitigation monitoring plan and development of the effectiveness monitoring program before the final HCP is released and an ITP can be issued. The CESA requires both implementation and effectiveness monitoring for covered species and mitigation measures. The final plan will reflect input from the public review process for the DEIR.

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Page 3.6-55. Grazing (All Alternatives).

The DFG supports the use of watershed analysis as an appropriate adaptive management process to mitigate adverse impacts of grazing on aquatic resources and rare plants. The DEIR identifies the following possible means for mitigating effects of grazing: "fencing of streams to prevent access, rotation of periods of grazing with periods of rest, provision of alternate sources of water (other than watercourses), and cessation of all grazing activity." Additional options will include management of the timing and intensity of grazing. Many of these proposed mitigation measures may not adequately mitigate the adverse impacts of grazing on specific aquatic resources or rare plants. Where watershed analysis reveals that livestock are accessing and degrading Class I or II streams, the DFG will likely insist on fencing to terminate that access.

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Page 3.9-17 and 3.9-18. 3.9.1.5 Rare and Uncommon Flora.

Under the CESA, species are listed as rare, threatened or endangered by the Fish and Game Commission not the DFG.

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Page 3.9-30. 3.9.2.1 Natural Vegetation. Alternative 2 (Proposed Action/Proposed Project).

PALCO proposes to convert (under Alternative 2) existing hardwood and prairie habitat to coniferous forest and to convert unentered and residual old-growth Douglas fir to early and midseral second growth forest. Table 3.9-1 predicts the following habitat changes on the current PALCO ownership under Alternative 2 during the 50-year life of the HCP.

Habitat Type	Year 0 acres	Year 50 acres	Percent Reduction
Hardwoods	1,563	198	87%
Prairie	5,687	3,832	33%
Old-growth Douglas Fir	4,174	1,722	59%
Residual Douglas Fir	4,433	867	80%

Some or all of the hardwood habitat predicted to be converted may have historically been forested. The DEIR does not explain the significance of an 87% reduction of hardwoods as a habitat type on the PALCO ownership within the current landscape context.

Some or all of the prairie habitat predicted to be converted may have historically been forested. For current prairie/grassland habitat established on forest soils and converted from timber types, it is probable that rare plant communities have not had sufficient time or conditions to become established. Still, the DEIR does not explain the significance of a 33% reduction of prairie as a habitat type on the PALCO ownership within the current landscape context.

As a habitat type, the discussion of **Douglas-fir Stands** beginning on page 3.9-11 indicates that significant amounts (i.e., more than 228,000 acres) of old-growth or late-seral Douglas fir will likely persist on Federal lands within the region. On this regional scale, it appears that the loss of unentered and residual old-growth Douglas fir forests on PALCO's ownership will reduce the overall acreage less than 3%. On a local scale, the reduction of old-growth Douglas fir within the Mattole and Bear River watersheds is likely to be more substantial, possibly between 40% and 50%. The HCP/Sustained Yield Plan projects considerable retention of late-seral and old-growth Douglas fir through the plan period (classified as wildlife habitat relationships type DFR6D, HCP Volume III, Part C) and out to at least 65 years (HCP Volume V, Map 23). This is principally due to the commitment by PALCO to maintain at least 10% late-seral habitat in each watershed assessment area at all times during the HCP period. The HCP and Table 3.9-1 in the DEIR probably underestimate the acreage of old-growth and late-seral Douglas fir at the end of the HCP because they do not fully account for conservation benefits of the HCP aquatic strategy in retaining unentered or late-seral forest along Class I and II streams. The DFG recommends that the CDF make explicit determinations regarding the significance of reduced late-seral and old-growth Douglas fir habitat at regional and watershed (e.g., Bear and Mattole River) scales in the final EIR.

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Page 3.9-46. 3.9.5.1. Mitigation for Rare and Uncommon Flora.

The DFG does not concur that the proposed mitigations will be sufficient. Terms such as "should" and "can" provide too much opportunity for interpretation and are not enforceable. The DFG recommends that the CDF require one of the following risk management strategies to minimize the potential for covered activities to impact rare plant species and to provide necessary information to develop effective mitigation measures.

- 1) Require full floristic surveys for each timber harvest plan (THP). The DFG can provide protocols for these surveys or
- 2) require PALCO to develop procedures approved by the DFG for comparing known distribution and habitat requirements of rare plant species with on-site conditions of each THP. Where potentially suitable habitat exists on a THP, require focused surveys at the appropriate time of year to identify potential occurrences. Based upon the information collected through these steps, PALCO can evaluate potential impacts and propose mitigation measures with the THP.

The DFG believes these alternatives are feasible within the meaning of Public Resources Code §21002.

Page 3.10-106. Mitigation for Snags and Downed Logs. Applicant Proposed Mitigation.

The DFG recommends that the final EIR explicitly state that PALCO's commitment to retain all safe snags include both merchantable and unmerchantable safe snags.

Appendix Table M-2.

The purpose of this appendix is not entirely clear since it does not address all of the species proposed for incidental take coverage in the HCP. Fish, amphibian and reptile species are not addressed. Also absent are double-crested cormorant, sharp-shinned hawk, ferruginous hawk, yellow warbler and yellow-breasted chat. Conversely, black-shouldered kite is addressed in Appendix M-2 but is not proposed for coverage.

Appendix Table M-2. Unique Habitats.

The draft HCP provides for the retention of all (i.e., merchantable and unmerchantable) snags which do not pose a safety hazard.

Appendix Table M-2. Marbled Murrelet.

The period of seasonal restrictions commences on March 24 not March 15.

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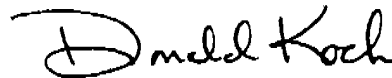
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Appendix Table M-2. Northern Goshawk, Osprey, Great Blue Heron, Black-Crowned Night Heron, Snowy Egret, Great Egret, Black-Shouldered Kite.

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Nest site protection measures in the State ITP will be no less protective than the measures specified here and are likely to be substantially more protective.

This concludes the DFG's comments on the DEIR. The DFG's representative for this project is Environmental Services Supervisor Mark Stopher. He can be contacted at (530) 225-2275 or CALNET 442-2275.



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